

September 5, 1972

Mr. Robert Justice
Lapoint, Utah 84039

Dear Mr. Justice:

Reference is made to your letter of August 14, 1972, regarding the distribution of the waters of Deep Creek. In your letter you refer to Temporary Court Order, Civil No. 3444 which indicates that you are to receive all of the water that is flowing in Deep Creek at the confluence of Mosby Creek and Deep Creek. An examination of the Temporary order discloses that the case was between Ollie W. Justice and Deep Creek Irrigation Company as plaintiffs and Mosby Irrigation Company, Edgar Jones, Dave Jenkins, and Floyd Warburton as defendants. The temporary order can only bind the above-mentioned plaintiffs and defendants as they were the only parties involved in the suit. The temporary order cannot bind any of the other users on the system as they were not made party to the suit. The temporary order under Civil No. 3444 is still in effect, but it only relates to the plaintiffs and defendants involved in the litigation.

Records in this office indicate that there is approximately 12.0 second-feet of water that can be diverted from Deep Creek by other parties not involved in this lawsuit under priorities that come before the Ollie W. Justice filing. (The Deep Creek Irrigation Company applications have permanently lapsed.)

From information presented to this office by Mr. Robert Guy and Mr. Adrain Kump, it seemed apparent that you were diverting water when there was not enough water at the confluence of Deep Creek to satisfy prior rights, thus my letter of July 24, 1972, addressed to you.

Your attention is directed to Civil No. 3067 which was a lawsuit between Elmer and Roy Huber as plaintiffs and Deep Creek Irrigation Company, Ollie W. Justice, Orlando Cook, Darvel Cook, and Ben Cook as defendants with Mosby Irrigation Company as intervener, in which the court issued a decree awarding 4.61 second-feet of water to the plaintiffs.

I trust this answers your questions.

Yours truly,

John Bene
Deputy State Engineer

RFG/mmt

cc: Robert F. Guy, Area Engineer